

October 15, 2007

### **Coordinated Examinations Identify Investment Adviser Deficiencies**

#### ***State Securities Regulators Update Best Practices to Help Advisers Strengthen Compliance Procedures***

WASHINGTON, D.C. – The North American Securities Administrators Association (NASAA) today released an updated series of recommended best practices that investment advisers should consider in order to improve their compliance practices and procedures.

“Our best practices were developed to help regulators and advisers better understand and meet compliance challenges,” said NASAA President and North Dakota Securities Commissioner Karen Tyler. “Advisers can use this information to help strengthen compliance programs and minimize the potential for regulatory violations. Strong compliance programs are an integral ingredient in building and maintaining investor confidence.”

Tyler said the best practices were developed after a nationwide series of [coordinated examinations](#) of investment advisers by 43 state and provincial securities examiners revealed a significant number of problem areas. Tyler said 418 examinations of investment advisers were conducted between January 1, 2007 and May 31, 2007. These exams revealed 2,135 deficiencies in 13 compliance areas.

Tyler noted that the 2007 examinations, conducted under the guidance of NASAA’s Investment Adviser Operations Project Group, found a 12 and 19 percent increase respectively in advisers with Registration and Books and Records deficiencies. A slight increase in advisers with Supervisory deficiencies was also noted. The number of advisers with custody deficiencies dropped by 6 percent.

The top five categories with the greatest number of deficiencies identified in the examinations involved registration, unethical business practices, books and records, supervisory/compliance, and privacy.

The examinations revealed that:

- 298 advisers had 504 deficiencies related to registration issues. The top three deficiencies in this category were inconsistencies between parts I and II of form ADV, failing to amend form ADV in a timely manner, and failing to provide or offer to provide the disclosure document to clients annually.
- 198 advisers had 318 unethical business practice deficiencies, including contract deficiencies, unsuitable recommendations, excessive fees, and misrepresenting qualifications, services, or fees.
- 189 advisers had 384 deficiencies in the area of preparing and maintaining current and accurate books and records. Not maintaining suitability data and financials were noted as the top two deficiencies in this area.
- 152 advisers had 174 supervisory/compliance deficiencies. The most common deficiency was failure to have any written supervisory/compliance procedures.
- 115 advisers had 142 privacy deficiencies. The most common were failure to create a privacy policy and failure to provide privacy notices initially and annually.

Other areas with deficiencies included the preparation and maintenance of financial records, advertising, fees, custody, investment activities, solicitors, performance reporting and hedge funds.

Based on the results of the 2007 coordinated exams, NASAA recommends the following “Best Practices” as a guide to assist advisers in the development of compliance practices and procedures.

- Review and revise the Form ADV and disclosure brochure annually to reflect current and accurate information.
- Review and update all contracts.
- Prepare and maintain all required records including financial records.
- Prepare and maintain client profiles which show suitability information.
- Prepare a written compliance and supervisory procedures manual relevant to the type of business.
- Prepare and distribute a privacy policy initially and annually.
- Keep accurate financials. File timely with the jurisdiction. Maintain surety bond if required.
- Calculate and document fees correctly in accordance with contracts and ADV.

- Review and revise all advertisements, including website and performance advertising, for accuracy.
- Implement appropriate custody safeguards, if applicable.
- Review solicitor agreements, disclosure, and delivery procedures.

NASAA is the oldest international organization devoted to investor protection. Its membership consists of the securities administrators in the 50 states, the District of Columbia, Puerto Rico, Canada, and Mexico.

**Download:**

[2007 Coordinated Investment Adviser Exam Report.](#)

**For more information:**

Bob Webster, Director of Communications  
202-737-0900